

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

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ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor

Plaintiff,

Case No. 07 CV 3332 (CLB)

v.

Hurtig-Evans International, Inc., a
Corporation; HEI, Inc., a Corporation
dba Hurtig-Evans Home Care Services;
Phillip K.C. Casimir, Individually and
as an Officer of Hurtig-Evans International,
Inc. and HEI, Inc.; Anisha Kiran Casimir,
Individually and as an Officer of Hurtig-Evans
International, Inc. and HEI, Inc.,

ECF Case

Defendants.

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DEFENDANTS ANSWER TO PLAINTIFFS FIRST AMENDED COMPLAINT

Defendants , Defendants , Defendants , HURTIG-EV Defendants , HURTIG-EVANS IN Defendants , HUR
HOME CARE SERVICES, PHILLIP K.C. CASIMIR AND ANISHA KIRAN CASIMIR

(hereinafter(hereinafter referred to as Defendant), by and through their(hereinafter referred to as Defendant), by
to the allegations containedto the allegations contained in Plaintiffs First Amended Complaint dated Aprilto the a

1. DefendantDefendant denies the allegations contained in paragraph 1" oDefendant denies the allegati
exceptexcept admits that Plaintiff purports to causeexcept admits that Plaintiff purports to cause this Court to hav
underunder the Fair Labor Standardsunder the Fair Labor Standards Act, under the Fair Labor Standards Act, and fu
relief can be granted.

2. Hurtig-Evans international Inc, Hurtig-Evans international Inc, no Hurtig-Evans international Inc, no longer
Main Street, Suite 201, New Rochelle, New York 10801.

3. Defendant denies allegations contained in paragraphs 5,6,7,8 of Plaintiff's complaint. Defendant denies all

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

6. Plaintiffs Complaint fails to state a claim upon which relief may be granted or for which the relief or recovery sought can be awarded.

AS A FOR A SECOND AFFIRMATIVE DEFENSE

7. At all times relevant hereto, Defendant At all times relevant hereto, Plaintiff's rights which may be secured to Plaintiffs under federal guidelines and, as such, the applicable statute of limitation under the FLSA is two years.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

8. Defendant believes in good faith that the individuals were exempt from the overtime requirements of the FLSA and as a result, Defendant is not liable for liquidated damages under the statute Long Island Care at Home v. Coke, _____ U.S. _____, 127 S. Ct. 2339 (June 2007).

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

_____9._____Plaintiff s claims are barred, in whole or in part, because Plaintiff has failed to satisfy statutory or other prerequisites to suit by the applicable statutes of limitation.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

10. The Complaint is barred, in whole or in part, by the statute of limitations.

acted in conformity with and in reliance upon written administrative regulations, acted in con-

opinion letters with regard to some or all of the acts or omissions alleged in the Complaint.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

11. TheThe relief sought in the Complaint is barred,The relief sought in the Complaint is barred, in part costs are not recoverable in actions pursued under 29 U.S.C. §216(b).

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

12. TheThe relief sought in the Complaint is barred, in whole or The relief sought in the Complaint individuals enumerated in Exhibit A individuals enumerated in Exhibit A are estopped individuals enumerated or any relief against Defendant.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

13. ToTo theTo the extent theTo the extent the individuals enumerated in Exhibit A are exempt from eli overtime compensation, they are not entitled to overtime compensation under the FLSA.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

14. TheThe individual enumeratedThe individual enumerated in Exhibit A have been paidThe individual Plaintiff cannot state a claim upon which relief could be granted.

WHEREFORE, Defendant requests that the Court:

- a. dismiss with prejudice Plaintiff s Complaint;
- b. deny each and every demand, claim and prayer for relief contained in Plaintiff s Complaint;
- c. award to Defendant reimbursement for its costs, including attorneys fees; and,
- d. grant such other and further relief as the Court deems just and proper.

Dated: New Rochelle, New York
July 10, 2007

Respectfully submitted,

ROBERT DAVID GOODSTEIN

By: _____
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